

CALIFORNIA'S NEW JOBS CREDIT

About the credit

- A new tax credit of \$3,000 for each additional full-time employee hired is available to small businesses with 20 or less employees beginning January 1, 2009.
- The credit is not subject to the 50% limitation for business credits.
- **The total amount of credit available to be claimed by all taxpayers is capped at \$400 million.**
- The credit must be claimed on a timely filed original return received by the Franchise Tax Board on or before a cut-off date specified by the Franchise Tax Board.
- Taxpayers claiming the credit on an original return received by the Franchise Tax Board after the cut-off date is met will be notified that the credit has been denied.
- Taxpayers that have been denied the credit as a result of the \$400 million cap being reached will **not** be assessed an underpayment of estimated tax or underpayment of tax penalty to the extent the underpayment was created or increased by the disallowance of this credit.

To qualify

- An employer will qualify for the credit if:
 - Each qualified full-time hourly employee is paid wages for not less than an average of 35 hours per week.
 - Each qualified full-time employee that is a salaried employee was paid compensation during the year for full-time
 - On the last day of the preceding taxable year, they employed a total of 20 or fewer employees.
 - There is a net increase in qualified full-time employees compared to the number of full-time employees employed in the preceding taxable year. For taxpayers who first commence doing business in California during the taxable year, the number of qualified full-time employees employed in the preceding year would be generally be zero, unless certain special rules apply.

Exceptions

- An employer may not claim the credit for those employees who are any of the following:
 - Certified as a qualified employee in an enterprise zone or targeted tax area.
 - Certified as a qualified disadvantaged individual in a manufacturing enhancement area.
 - Certified as a qualified disadvantaged individual or qualified displaced employee in a local agency military base recovery area.
 - An employee whose wages are included in calculating any other credit allowed.

Claiming the credit

- Claim the credit on a 2009 Personal Income Tax or Business Entity Tax Return using the credit form for the New Jobs Credit.

Example of full-time employee computation

In 2008, Small Biz, Inc. has one hourly employee who works 40 hours per week for 52 weeks, and two hourly employees who work 35 hours per week for 50 weeks. The average full-time equivalent is computed as follows:

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Employee 1	Works 40 hours x 52 weeks / 2000 hours	= 1.0 Full Time Employee
Employee 2	Works 35 hours x 50 weeks / 2000 hours	= 0.875 Full Time Employee
Employee 3	Works 35 hours x 50 weeks / 2000 hours	= 0.875 Full Time Employee
	Total 2008 Full Time Employees	=2.75 Full Time Employees

In February 2009, Small Biz hires one additional 40-hour-per-week employee. That employee works from February 1 through December 31. The other three employees work the same as they did in the prior year.

Employees 1-3	From above	=2.75 employees
Employee 4	Works 40 hours x 48 weeks/2000 hours	=0.96 employees
	Total 2009 Full Time Employees	=3.71 Full Time Employees

The net increase of full time employees from 2008 to 2009 is 0.96. The New Jobs Credit for 2009 is \$2,880. (\$3,000 (the amount of the eligible credit) X .96 (2009 Full time employee increase)

Seasonal employees

One interesting aspect of this law is that it appears a business that has seasonal employees may qualify if the number of weeks worked by a full-time individual increases because the net increase in qualified full-time employees is determined based on an annual full-time equivalent basis.

Example of full-time equivalent for a seasonal employee

Tim is a Schedule C filer and owns Tim's Tax Service. In 2008, he had Tom working full-time from January 1, 2008, through June 30, 2008. In 2009, Tim hired another accountant in addition to Tom who worked full-time from January 1, 2009, through June 30, 2009. Thus, he had all. increase of 0.5 full-time equivalent employees in 2009 over 2008, and qualifies for a credit of \$1,500.

Credit cut-off

Many homebuyers were shocked to hear that the New Home Credit abruptly ended in early July 2009 - only four months after its activation. That credit was capped at \$100 million, so homebuyers rushed to close escrow before the money ran out. The New Jobs Credit cut-off, which has a \$400 million cap, will work differently. First, qualified taxpayers must request the credit via a timely-filed original tax return. Taxpayers will claim the New Jobs Credit on the tax return; the FTB will not be issuing a certificate. The FTB will send a notice if the credit is disallowed.

The FTB will track the amount of credit generated as returns are filed to determine when to establish the cut-off date and will provide periodic notice on its Web site of the cumulative amount of the credit. The cut-off date will be posted as soon as it is determined. Under the law, the FTB will grant the credit through the end of the quarter in which the funds are expected to run out. Here's what the law says:

" . . . the cut-off date shall be the last day of the calendar quarter within which the Franchise Tax Board estimates it will have received timely-filed original returns claiming credits . . . that cumulatively total four hundred million dollars (\$400,000,000) for all taxable years."

As you can see this is a very complex calculation, please contact our office with questions.

The information contained in this document does not constitute tax advice.

Radakovich, Shaw & Blythe, LLP
CERTIFIED PUBLIC ACCOUNTANTS

3220 S. HIGUERA STREET, SUITE 201 - SAN LUIS OBISPO, CA 93401-3689

805 544-1557 fax 805 544-1573